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Raymond Morrison vs Duval County

MORRISON VERSUS DUVAL COUNTY. I UNDERSTAND YOU WANT TO VERIFY MINUTES FOR REBUTTAL, IS THAT CORRECT?

YES.

YOU'LL HAVE TO KEEP TRACK OF THAT.

I'M ALREADY AT ONE MINUTE. MAY IT PLEASE THE COURT, MY NAME IS CHET KAUFMAN. I'M HERE REPRESENTING RAYMOND MORRISON, JR. I'M GOING TO RESERVE THE FIVE MINUTES FOR REBUTTAL AND ANY ISSUES THAT I DON'T ADDRESS ORALLY I RESERVE FOR THE BRIEFS. ESSENTIALLY, THE FACTS IN THIS CASE CONCERN A THE STABBING DEATH OF A GENTLEMAN NAMED ALBERT DWELL IN A RESIDENTIAL ROBBERY IN JACKSONVILLE ON OR ABOUT JANUARY 8, 1997. THE TRIAL WAS HELD IN 1998. I WISH TO HAVE THE COURT FOCUS IN THIS ORAL ARGUMENT ON ONE PARTICULAR ISSUE, ALTHOUGH I'M CERTAINLY PREPARED TO ADDRESS OTHER ISSUES. THE ISSUE THAT I'D LIKE TO HAVE THE COURT FOCUS ON RIGHT NOW IS ISSUE 5 IN THE BRIEF, WHICH IS ESSENTIALLY ARGUING THAT THE STATE'S ILLICIT AND UNPRECEDENTED USE OF THE AUTHORITY OF RELIGION AND THE CHURCH WERE USED TO OVERBEAR MORRISON'S WILL AND EXTRACT A CONFESSION FROM HIM. THIS CASE IS UNPRECEDENTED. I'VE NOT ENCOUNTERED ANYWHERE IN THE COUNTRY THAT I'VE LOOKED ANY FACTS THAT IN ANY SHAPE OR FORM RESEMBLE WHAT OCCURRED HERE. SO I THINK THE BEST WAY FOR ME TO PURSUE THIS ARGUMENT TO - BEGIN WITH A LITTLE FACTUAL EXPLANATION, GOING THROUGH THE CHRONOLOGY OF WHAT TOOK PLACE WITH RESPECT TO THE CONFESSION. THE KEY PLAYER IN THIS, I SUPPOSE, IS OFFICER RICHARDSON. POLICE OFFICER RICHARDSON IS AN ORDAINED MINISTER AND A CHURCH PASTOR AND HE'S ALSO A JACKSONVILLE POLICE DEPARTMENT OFFICER. HE WAS ASSIGNED TO THE JACKSONVILLE HOUSING AUTHORITY. HE HAS BEEN AN O ORDAINED MINISTER FOR ABOUT 10 YEARS, I BELIEVE. HE'S BEEN THE PASTOR OF ZONE CHURCH FOR ABOUT THREE YEARS AT THE TIME THIS TOOK PLACE. HE TESTIFIED AND I'VE GIVEN THAT TESTIMONY IN MY BRIEF, THAT AS A MATTER OF HABIT, HE ALWAYS WEARS BOTH HATS AT THE SAME TIME. HE ALWAYS COUNSELS PEOPLE WHEN HE'S IN UNIFORM AS AN OFFICER, TRANSPORTING INDIVIDUALS, AS A MATTER OF HABIT HE PREACHES THE CHURCH, HE PREACHES RELIJO ON TO THOSE PEOPLE WHO HE'S TRANSPORTING AND TO OTHERS WHO HE MEETS ON THE STREET. RICHARDSON WAS ON DUTY AT THE HOUSING AUTHORITY COMPLEX, THE RA PLON NA APARTMENTS, ON OR ABOUT JANUARY 9, WHEN THE MURDER WAS DISCOVERED. AN INVESTIGATOR NAMED SHORT CAME TO THE SCENE AND WAS IN CHARGE OF THE INVESTIGATION. AFTER A COUPLE OF HOURS AT THE SCENE IT APPEARED THAT SHORT CAME TO CONCLUDE THAT MORRISON WAS A SUSPECT. MORRISON WAS NOT PRESENT AT THE TIME. HE BELIEVED THAT MORRISON WAS A SUSPECT AND HE FOUND OUT THERE WAS A WRIT OF ATTACHMENT OUTSTANDING ON MORE RI VON. SO HE INSTRUCTED RICHARDSON TO GO FIND MR. MORRISON AND BRING HIM IN.

THERE'S NOT A NEXUS, HOWEVER, BETWEEN RICHARDSON'S STATUS AS A MINISTER AND HIS ASSIGNMENT TO APPREHEND THIS INDIVIDUAL, IS THERE?

NO EVIDENCE I'M AWARE OF. OFFICER/PREACHER RICHARDSON THEN LOCATES MR. MORRISON. I BELIEVE IT'S ON THE 10TH, ON A FRIDAY, AND ARRESTS ARE HIM AT GUN POINT, PUTS HIM IN THE BACK OF A PATROL CAR, MIR AN DIESES HIM, TRANSPORTS HIM BACK TO THE MA RONA

APARTMENTS WHERE THE MURDER HAD TAKEN PLACE AND WHERE SHORT WAS. EN ROUTE THEY TALKED RELIGION. OFFICER/PREACHER RICHARDSON WAS QUITE OPEN ABOUT IT IN THE TRIAL AND I HAVE HIS EVIDENCE AGAIN, I'VE QUOTED IT EXTENSIVELY IN MY BRIEF. HE ADMITTED THAT HE INITIATED THE DISCUSSION OF RELIGION. THEY TALKED ABOUT PRAYER. THEY TALKED ABOUT GETTING RITES OF GOD BEING SAVED.

DID HE REALLY SAY HE INITIATED IT? OR DID HE -- I THOUGHT THAT HIS TESTIMONY REALLY WAS MORE THAT HE DIDN'T REALLY RECALL HOW IT CAME UP BUT HE REMEMBERED THAT THE DEFENDANT HAD STARTED TALKING ABOUT HIS PROBLEMS WITH ALCOHOL AND DRUGS FIRST, AND THAT THAT'S WHEN THE OFFICER MAY HAVE SAID SOMETHING TO HIM ABOUT NEEDING TO GET RIGHT WITH GOD, BECAUSE IF HE WANTED TO GET RID OF THOSE KINDS OF PROBLEMS.

YOUR HONOR, HE EXPRESSLY SAID AT RECORD PAGE VOLUME 8, RECORD 1271 AND I QUOTED IT ON PAGE 58 OF MY INITIAL BRIEF HE ASKED BY THE STATE, DO YOU RECALL HOW IT CAME UP? IT BEING RELIGION. RICHARDSON: I BELIEVE I INITIATED THE SUBJECT MYSELF. SO THERE'S ABSOLUTELY NO QUESTION ABOUT IT. THEY TALKED SPECIFICALLY ACCORDING TO RICHARDSON AND BY THE WAY OF COURSE, MR. MORRISON DID TESTIFY AT THE HEARING AND ALL THE EVIDENCE I'M GIVING YOU IS COMING FROM THE STATE'S WITNESSES. NOT FROM ARE THE EVIDENCE OF MR. MORRISON.

IN FACT WHAT YOU JUST QUOTED, WASN'T THERE SOME MORE TO THAT ABOUT AFTER THE DEFENDANT HAD BROUGHT UP HIS ALCOHOL AND DRUG PROBLEMS?

CERTAINLY THAT CAME INTO THE CONVERSATION. BUT THAT WAS PART OF THE CONVERSATION INITIATED ONCE A OFFICER MORRISON -- ONCE OFFICER RICHARDSON STARTED TALKING ABOUT RELIGION. THE QUOTE, HIS NEXT ANSWER WAS, "I DON'T HAVE A REAL INDEPENDENT RECOLLECTION OF HOW THE CONVERSATION WAS INITIATED EVEN THOUGH HE JUST SAID HE INITIATED THE CONVERSATION ABOUT RELIGION. HE SAID I DO REMEMBER AND I TRY TO MAKE IT A HABIT ALL THE TIME WHEN I'M TRANSPORTING AN INDIVIDUAL OR TALK TO AN INDIVIDUAL ON THE STREET TO TRY TO SHARE WITH THEM CHRIST. SO NOT ONLY DID HE SAY HE INITIATED IT BUT THAT'S ALSO CONSISTENT WITH HIS HABIT WHICH HE SAYS HE DOES ALL THE TIME.

DOES HE KNOW THAT MORRISON WAS A SUSPECT IN THE MURDER?

ABSOLUTELY. HE WAS THERE AT TA INVESTIGATION OF THE HOMICIDE WITH DETECTIVE SHORT. WAS WELL AWARE OF THE FACT THAT THERE HAD BEEN A HOMICIDE AND THAT MORRISON WAS BEING SOUGHT IN CONNECTION WITH THE HOMICIDE.

BUT HE WAS ARRESTED NONPAYMENT OF CHILD SUPPORT.

YES, THEY USED THAT AS A SUBTERFUGE BECAUSE THEY KNEW THEY DIDN'T HAVE PROBABLE CAUSE TO BRING HIM IN.

WHEN HE MIRANDIZED HIM WHAT DID HE TELL HIM HE WAS BEING ARRESTED FOR?

ON THE WRIT OF ATTACHMENT.

YOU HAVE A RIGHT TO REMAIN SILENT ON THAT.

I DON'T THINK HE SAID HE GAVE HIM A PARTICULAR RIGHT ON A PARTICULAR CHARGE. IT SAID HE GAVE HIM HIS MIRANDA RIGHTS AND HE HAD EVERY REASON TO THINK MORRISON UNDERSTOOD HIS MIRANDA RIGHTS. WHEN HE ASKED HIM WHY HE WAS BEING ARRESTED HE SAID IT WAS ON THE WRIT OF ATTACHMENT.

DIDN'T MORRISON ASK IF THIS WERE IN CONNECTION WITH THE OLD MAN?

YES, HE DID AND THE TRIAL JUDGE MADE NO FINDING AS TO THAT STATEMENT AND IN FACT THE TRIAL JUDGE OMITTED ANY REFERENCE TO THAT FINDING IN HIS FINDINGS, ANY REFERENCE TO THAT STATEMENT IN HIS FINDINGS.

CLARIFY FOR US WHILE YOU'RE DESCRIBING THESE FACTS WHAT RICHARDSON'S ROLE WAS IN THE INVESTIGATION. WAS HE AN INVESTIGATING POLICE OFFICER ON THIS MURDER CASE? OR WAS HIS ROLE LIMITED? OR WAS WHAT WAS HIS ROLE AS DISCLOSED BY THE EVIDENCE DURING THIS OPPRESSION HEARING?

PART OF YOUR ANSWER WILL COME FROM MICRONOLOGY OF THE FACTS AND PART OF THE ANSWER TO SUM UP BRIEFLY IS THAT WE'RE REALLY UNCLEAR ABOUT HIS ROLE HERE BECAUSE HIS ROLE WAS SO MULTIPlicitous. HE WAS THE ARREST RG OFFICER. HE WAS ALSO THE RELIGIOUS SPIRITUAL CONFIDANT WHOSE COMMUNICATION WITH MORRISON WAS HELD BY THE TRIAL COURT TO BE A PRIVILEGED COMMUNICATION. HE WAS ALSO A PARTICIPANT IN THE INVESTIGATION INSOFAR AS HE ACTUALLY TOLD MORRISON DURING THE INTERROGATION WHEN MORRISON MADE THE FINAL STATEMENT, HE ACTUALLY TOLD MORE RI VON, "YOU NEED TO TALK TO THE POLICE. YOU NEED TO TELL THEM WHAT THEY WANT TO HEAR." HERE IT IS OPEN ON VOLUME 8 RECORD PAGE 1284: DURING THAT INTERROGATION, SHORT -- HAVEN'T GOTTEN TO THAT CHRONOLOGY BUT THERE'S AN INTERROGATION ULTIMATELY WHICH LED TO THE STATEMENT IN WHICH SHORT AND RICHARDSON AND MORE RI VON, THE THREE OF THEM ARE IN AN INTERROGATION ROOM AT THE POLICE STATION.

IS THIS AFTER MORE RI VON ASKED TO HAVE RICHARDSON COME TALK WITH HIM?

THIS IS WELL AFTER. THIS IS THE FINAL STATEMENT WHEN THE CONFESSION WAS MADE. HE SAYS, QUOTE, I TOLD HIM THAT, YOU KNOW, IF YOU WANT TO, YOU NEED TO RELATE THIS INFORMATION TO DETECTIVE SHORT. SO RICHARDSON, WHO HAS ALREADY ESTABLISHED A SPIRITUAL RELATIONSHIP WITH MORRISON, WHOSE COMMUNICATIONS WITH MORRISON HAVE ALREADY BECOME PRIVILEGED, WHO HAS ALREADY RECOGNIZED THAT HE IS IN FACT A SPIRITUAL ADVISOR, A PRIVILEGED, PROTECTED SPIRITUAL ADVISOR TO MORRISON, AT THAT POINT HE'S NOW PARTICIPATING IN THE INTERROGATION WITH DETECTIVE SHORT, AND TELLS MORRISON AT THAT TIME, I TOLD HIM, YOU KNOW, IF YOU WANT TO, YOU NEED TO RELATE THIS INFORMATION TO DETECTIVE SHORT. SO HE'S WEARING --

WHEN DID THE CONVERSATION TAKE PLACE THAT YOU SAY THE TRIAL COURT DID EXCLUDE?

THAT TOOK PLACE IMMEDIATELY BEFORE THAT, MOMENTS BEFORE THAT.

AND HOW -- GIVE US SOME CONTEXT FOR THAT. HOW LENGTHY A CONVERSATION WAS THAT?

THAT WAS ABOUT AN HOUR AND A HALF OR SO. LET ME GO BACK TO MICRONOLOGY BECAUSE I THINK THIS WILL HELP WITH IT. OFFICER RICHARDSON, UPON SEIZING MORRISON, BROUGHT HIM BACK TO THE RAMONA APARTMENTS AND THEREUPON HE TALKED TO DETECTIVE SHORT. RICHARDSON TOLD SHORT, I TALKED RELIGION WITH MORRISON IN THE POLICE CAR. HE WAS WELL AWARE AT THIS POINT AND SHORT WAS NOW AWARE --

SOME POLICE OFFICERS TALK ABOUT POLITICS. SOME TALK ABOUT CHRIST. WHAT MAKES IT CROSS THE LINE FOR HIM TO BECOME THE SPIRITUAL ADVISOR TO THE EXTENT THAT EVIDENCE ARE REG IS PRIVILEGED AT THAT POINT? WHERE IS THAT LINE OF DEMARCATION?

THE TROUBLE IN THIS CASE IS THERE IS NO LINE OF DEMARCATION. THE LINE IS COMPLETELY BLURRED IN THIS CASE. THAT IS ESSENTIALLY THE MAJOR PROBLEM. THAT RICHARDSON NEVER WAS ABLE TO SEPARATE THE ROLES AND HE PLAYED BOTH ROLES AT THE SAME TIME EITHER WITTINGLY OR UNWITTINGLY. THAT'S JUST WHO HE WAS AND HOW HE CONDUCTED HIS BUSINESS

AS A POLICE OFFICER.

IT'S NOT QUITE THAT CLEAN. YOU HAVE ALL GRADATIONS THERE. YOU HAVE AN OFFICER LET'S SAY THAT IS JUST A VERY RELIGIOUS PERSON HIMSELF AND HE TELLS PRISONERS, WELL, YOU OUGHT TO BE A BETTER PERSON IN YOUR LIFE. YOU GO FROM THERE TO THE POLAR EXTREME AN OFFICER THAT'S EXTRACTING CONFESSIONS VIA ACTING AS RELIGIOUS ADVISOR TO THE PERSON. CAN YOU SEE --

THAT'S WHAT HE WAS DOING IN THIS CASE.

-- GO FROM ONE EXTREME TO THE OTHER.

THIS CASE IS AN ABERATION.

I'M TRYING THE TO FIGURE OUT WHERE HAVE THE LINE CROSSED THERE?

I WOULD LOVE TO BE ABLE TO SUGGEST TO THE COURT THAT YOU CAN DRAW A SIMPLE LINE SEPARATING BLACK FROM WHITE BUT I DON'T KNOW THAT YOU CAN DO THAT. AND I'M NOT SO SURE YOU REALLY NEED TO DO THAT IN THIS CASE BECAUSE THIS IS THE MOST ABERRENT CASE I'VE EVER ENCOUNTERED WHERE ARE THE POLICE OFFICER HIMSELF WAS A PASTOR, HAD HIS OWN CHURCH, WAS AN ORDAINED MINISTER. IT WASN'T THAT THIS WAS JUST A DEEPLY RELIGIOUS MAN WHO HAPPENED TO BE A POLICE OFFICER WHO WANTED TO SHARE SOME OF HIS RELIGIOUS VALUES AND WHO WANTED TO HELP ENCOURAGE SOMEBODY TO GET RIGHT.

HE WAS NOT THE DEFENDANT'S PASTOR, THOUGH, WAS HE?

HE BECAME THE DEFENDANT'S PASTOR IN THIS CASE. THE STATE ACKNOWLEDGED THAT. AND THE TRIAL COURT MADE THAT FINDING THAT IN FACT HE DID BECOME PASTOR AND IT WAS A PRIVILEGED CLERGY COMMUNICATION. THE TRIAL COURT MADE A CLEAR FINDING OF THAT AND THE TRIAL COURT ACKNOWLEDGED THE STATE AGREED TO THAT.

IS THERE ANY CLEAR EVIDENCE IN THE RECORD THAT THIS RELATIONSHIP WITH RICHARDSON WAS INVOLVED IN ANY WAY WITH SHORT MAKING THE INDIVIDUAL -- TAKING THE INDIVIDUAL TO THE CHAPEL FOR PRAYER?

ABSOLUTELY IN MY OPINION YOUR HONOR IT CERTAINLY DOES. THAT'S WHAT I WAS ALLUDING TO BEFORE WHEN I WAS TALKING TO JUSTICE ANSTEAD.

WHAT'S THE EVIDENCE THAT WOULD TIE THAT?

WHEN RICHARDSON TRANSPORTED MORRISON BACK TO THE RAMONA APARTMENTS EN ROUTE TO THE POLICE STATION, RICHARDSON WENT IN AND TALKED TO SHORT AND TOLD SHORT, I TALKED RELIGION WITH THIS GUY. THAT'S WHAT WE WERE TALKING ABOUT IN THE CAR. RICHARDSON NOW KNEW AND NOW SHORT KNEW THAT RICHARDSON WAS A PARTICULARLY SUSCEPTIBLE PERSON TO RELIGION. HE WAS A PARTICULARLY DEEPLY RELIGIOUS INDIVIDUAL AND NOW THEY KNEW AT THIS POINT HERE IS AN AREA WHERE YES CAN TRY TO SOFTEN HIM UP. THEN HE TOOK MORRISON TO THE POLICE STATION. RICHARDSON TOOK HIM TO THE POLICE STATION. HE CONTINUED TO TALK RELIGION WITH HIM, CONTINUED TO TALK SALVATION AND GETTING RIGHT WITH GOD AND CONTINUED TO ENCOURAGE HIM TO TELL POLICE THE TRUTH. THEN SHORT TOOK OVER THE INTERROGATION WITH DETECTIVE DAVIS. THEY INTERROGATED MORRISON AT THAT POINT FOR ABOUT I GUESS AN HOUR OR SO. IT WAS FROM ABOUT 6:00 P.M. TO MAYBE ABOUT 7:00 P.M. OR SO. THERE WAS AN EPISODE WHERE DETECTIVE DAVIS JUST RAN AMOCK AND STARTED BANG ON THE TABLE AND CAUSED A BIT OF A CONFLICT WITH MORRISON. SHORT CAME IN AND DAVIS LEFT. SHORT TOOK OVER THE CONVERSATION AND SHORT SAID WELL, BASICALLY, IT LOOKS TO ME LIKE YOU WANT TO PRAY. AND THIS ISN'T A REAL GOOD ROOM FOR IT. YOU SEEM

TO BE CONCERNED ABOUT THE TWO-WAY MIRROR IN THIS INTERROGATION ROOM. SO WHY DON'T I HELP YOU PRAY. WHY DON'T I TAKE YOU TO SOMEPLACE WHERE YOU CAN PRAY. SO HE TOOK HIM TO THE POLICE'S OWN CHAPEL IN THE POLICE STATION AND HE WOULDN'T LET HIM BE THERE ALONE. HE TOLD HIM IF YOU GO IN, I GO IN. SO HE WENT IN WITH MORRISON. MORRISON GETS DOWN ON HIS KNEES TO PRAY. SHORT GETS DOWN ON HIS KNEES RIGHT NEXT TO HIM. AND THEN MORRISON STARTS PRAYING ALOUD. AND SHORT IS SITTING THERE EAVESDROPPING, LISTENING TO THE PRAYER, LISTENING TO WHAT MORRISON IS SAYING TO GOD. THEN THEY SIT DOWN TOGETHER, THEY SORT OF CROSS THEIR LEGS AND SIT DOWN TOGETHER AND START TO TALK SOME AFTER MORRISON FINISHES PRAYING. AND THEN SHORT REALIZES THAT MORRISON IS JUST ABOUT READY TO CRACK. HE'S REAL CLOSE. HE SOUNDS LIKE HE WANTS TO TALK BUT HE'S NOT SURE. SO HE SAYS, OKAY, THAT'S FINE. AND HE TAKES HIM BACK TO THE INTERROGATION ROOM. AT THE INTERROGATION ROOM, SHORT SAYS, "TELL YOU WHAT, MAYBE IT WOULD BE MORE COMFORTABLE FOR YOU TO TALK TO ME IF YOU HAVE SOMEBODY HERE WHO YOU'D LIKE TO SPEAK WITH. WHO WOULD YOU LIKE TO HAVE SIT WITH YOU? WHAT DOES MORRISON SAY? I WANT THE PREACHER/POLICEMAN. WHO'S THE PREACHER/POLICEMAN? RICHARDSON. RICHARDSON COMES DOWN AND THEN RICHARDSON GOES IN -- I'M SORRY.

ISN'T THAT SIGNIFICANT IN YOUR WHOLE POINT HERE IS THAT THE TOTALITY O OF THE CIRCUMSTANCES SHOWS THAT THIS WAS NOT A VOLUNTARY CONFESSION. THAT MORRISON'S WILL WAS OVERCOME. BUT ISN'T IT IMPORTANT IN TERMS OF SHOWING THIS WHOLE PRECONCEIVED PLAN OF WHAT THE POLICE ARE DROING AND THE DECEPTION THAT THEY DIDN'T HAVE RICHARDSON COME BACK BUT IT WAS MORRISON WHO AFFIRMATIVELY REQUESTED THAT RICHARDSON COME THERE? HE COULD HAVE PICKED HIS MOTHER.

AGAIN WE'RE LOOKING AT THE TOTALITY OF THE CIRCUMSTANCES. THEY'RE LEADING HIM INTO THIS. IN FACT IN HIS TESTIMONY YOU'LL SEE DETECTIVE SHORT SAYS I WAS HOPING HE WOULD ASK FOR A CLERGY PERSON. AND BY THE WAY, DETECTIVE SHORT WAS THE TRAINING OFFICER OF OFFICER RICHARDSON. DETECTIVE SHORT CLAIMS IN HIS TESTIMONY THAT HE DIDN'T KNOW THAT RICHARDSON WAS A PREACHER. BUT RICHARDSON TESTIFIED: EVERYBODY KNEW. IT WAS COMMON KNOWLEDGE IN THE POLICE DEPARTMENT I WAS A PASTOR THAT I WAS AN ORDAINED MINISTER.

DON'T YOU THINK IT'S A SIGNIFICANT FACT, SINCE THIS IS SORT OF A CREDIBILITY TOTALITY O OF THE CIRCUMSTANCES SITUATION, THAT THE LIGHT MOST FAVORABLE TO THE STATE AT THIS POINT THAT IT WAS MORRISON THAT INITIATED THE REQUEST FOR RICHARDSON TO COME?

TO SOME EXTENT HE DID. BUT HE WAS PRESSURED TO DO SO, IN EFFECT PRESSURED ON USING RELIGIOUS GROUNDS. THEY HAD BEEN USING RELIGION ON HIM FOR HOURS AT THIS POINT. AND WHO WAS HE GOING TO ASK FOR AT THAT POINT OTHER THAN THE PERSON WITH WHOM HE HAD ALREADY STARTED TO HAVE A SPIRITUAL RELATIONSHIP, OFFICER RICHARDSON.

SO THEN AT THAT POINT RICHARDSON COMES --

RICHARDSON CAME DOWN AND THEN ENGAGED IN A CONVERSATION IN THE ROOM WITH MORRISON ALONE, NO DETECTIVES IN THERE AND THEY TALKED FOR AN HOUR AND A HALF OR SO.

THAT WAS FOUND TO BE THE PRIVILEGED.

THAT WAS FOUND TO BE A PRIVILEGED COMMUNICATION.

HOW DO YOU FIND THAT TO BE SIGNIFICANT THEN? IN OTHER WORDS, AT THAT POINT THE TRIAL COURT IS NOW SAYING THAT RICHARDSON'S POLICE HAT IS OFF AND THE SPIRITUAL HAT IS ON. I MEAN THAT'S ESSENTIALLY WHAT HAS HAPPENED,.

THAT SEEMS TO BE WHAT THE TRIAL COURT IS SAYING AND I'M SUGGESTING THAT IT CAN'T BE DONE THAT CLEANLY AND THAT CLEARLY AND CERTAINLY CAN'T BE DONE ON THE TOTALITY OF THIS RECORD WHERE RIT WASN'T JUST RICHARDSON WHO WAS WEARING THE HAT AT THAT POINT IN TIME. RICHARDSON NEVER TOOK THE RELIGIOUS HAT OFF. HE NEVER TOOK OFF THE HAT OF A PASTOR. HE'D BEEN WEARING IT THROUGHOUT. HE'D BEEN ACTING AS A PASTOR AS WELL AS A POLICE OFFICER FROM THE BEGINNING AND THEN THEY USED THE POLICE CHAPEL TOO.

SO WHAT TIME OF NIGHT IS THIS NOW?

THIS IS NOW AFTER 1:00 IN THE MORNING. SOMETHING LIKE 1:00, 1:30 IN THE MORNING AND THEY FINISH WITH MORRISON.

NOTHING IS TAPED?

AT THIS POINT NOTHING IS TAPED AT ALL. THEN MORRISON -- RICHARDSON IS FINISHED WITH MORRISON. HE LEAVES THE ROOM, SHORT COMES IN, MORRISON'S ABOUT TO GIVE A STATEMENT AND SHORT SAYS, WOULD YOU LIKE RICHARDSON IN THERE? AND RICHARDSON COMES IN AND SITS WITH MORRISON. ARE RICHARDSON, THE PREACHER/POLICEMAN. HE SITS WITH MORRISON AND THEN IN THE COURSE OF SHORT'S INTERROGATION OF MORRISON WITH RICHARDSON RIGHT THERE, RICHARDSON SAYS WHAT I WAS QUOTING TO YOU EARLIER, WHERE HE TELLS MORRISON THAT YOU'VE GOT TO TELL THE POLICE WHAT THEY WANT TO HEAR. AND AT THIS POINT, RICHARDSON HAS ALREADY BEEN FOUND TO BE CLEARLY AND UNEQUIVOCALLY THE SPIRITUAL ADVISOR. WHAT WE'VE GOT HERE IS AN INSTITUTIONALIZATION BY THE STATE OF THE CHURCH. THE CHURCH HAS NOW BECOME THE STATE. THERE IS NO SEPARATION. THERE HAS BEEN NO SEPARATION FOR A QUITE A WHILE AT THIS POINT. AND THE CHURCH IN AND RELIGION ARE BEING USED AS LAW ENFORCEMENT ARMS. IT'S NOT AS I WAS SUGGESTING BEFORE JUST SOMEBODY WHO HAD SOME STRONGLY-HELD PERSONAL RELIGIOUS BELIEFS WHO WAS THEN TRYING TO USE THESE BELIEFS. WHEN A PERSON SEEKS -- WHEN A PERSON OF FAITH IS SEEKING ASYLUM, IS SEEKING SOMEPLACE TO GO TO WHEN THEY DON'T TRUST THE STATE, WHEN THEY DON'T TRUST THE GOVERNMENT, WHEN THEY DON'T WANT TO PUT THEIR FAITH IN THE GOVERNMENTAL ENTITIES, THEY PUT THEIR FAITH IN RELIGION. THEY PUT THEIR FAITH IN GOD. IN THIS CASE MORRISON HAD NO PLACE TO TURN BECAUSE HE HAD TO TURN TO THE POLICE THEMSELVES BECAUSE THE POLICE WERE THE CHURCH. THE POLICE WERE THE RELIGION. THERE WAS NOWHERE ELSE FOR HIM TO GO. AND THAT'S WHERE HE WENT AND THEY KNEW THAT AND THEY WERE LEADING HIM TO THAT. THEY LED HIM RIGHT DOWN THAT PATH FROM THE VERY BEGINNING. AS SOON AS MORRISON TOLD SHORT, RELIGION IS WHAT WE TALKED ABOUT IN THAT CAR, THAT WAS IT. SHORT KNEW. SHORT KNEW EXACTLY HOW TO GET TO HIM. THAT WAS EXACTLY HOW SHORT GOT TO HIM. THAT WAS WHY SHORT SAID, WHY DON'T YOU PRAY IN THE CHAPEL INSTEAD OF IN THIS INTERROGATION ROOM AND SAT THERE WITH HIM ON HIS KNEES. THIS IS THE KIND OF CONDUCT THAT GOES WAY BEYOND THE PALES. AS I SAID AT THE BEGINNING, THERE'S ABSOLUTELY NO PRECEDENT I'VE ENCOUNTERED ANYWHERE WITH FACT ANYTHING CLOSE TO THIS.

IF MORRISON HAD SAID, LET'S LEAVE HIM OUT OF THE SCENE AND MORRISON HAD SAID I WANT TO SEE A MINISTER, AND TALK TO HIM, AND A MINISTER, AN OUTSIDE MINISTER HAD COME IN, AND AFTER TALKING TO HIM HE TOLD MORRISON THAT, YOU SHOULD GO AHEAD AND CONFESS, AND MORRISON CONFESSED, IS THERE ANYTHING WRONG WITH THAT?

I'M NOT SURE -- I'M EQUIVOCATING ON THAT. I'M NOT SURE. I'VE BEEN THINKING ABOUT THAT QUITE A BIT THE PAST COUPLE OF DAYS. AND I SUSPECT IT MIGHT BE APPROPRIATE, IT MIGHT BE ACCEPTABLE UNDER CERTAIN CIRCUMSTANCES. BUT IT CERTAINLY ISN'T ACCEPTABLE UNDER THESE CIRCUMSTANCES WHERE THE PERSON IS THE POLICE, WHERE THE PREACHER IS THE POLICE. WHEREAS THAT'S THE ONLY PLACE HE HAS TO TURN TO. HE HAS TO PRAY IN THE POLICE STATION. I'M SORRY?

MORRISON KNOWS THIS THROUGHOUT, THAT HE IS A POLICEMAN.

RIGHT.

MORRISON CHOOSES HIM TO BE HIS RELIGIOUS ADVISOR, TOO. THAT'S A CHOICE ON MORRISON, ISN'T IT?

MORRISON KNOWS HIM TO BE A PREACHER AND A PASTOR, TOO. WHEN THEY WERE IN THE POLICE CAR ORIGINALLY TRANSPORTING MORRISON TO THE RAMONA APARTMENTS AT THE TIME OF HIS ARREST, RICHARDSON WROTE HIS NAME AND PHONE NUMBER ON A CARD AND GAVE IT TO MORE ARE RI SON AND SAID LOOK, I'M A PASTOR, I'M A PREACHER. YOU COME TO MY CHURCH, HERE'S MY NUMBER. YOU CALL ME WHEN THIS THING IS OVER. I WILL BRING YOU DOWN TO MY CHURCH TO PRAY. WHERE'S THE SEPARATION HERE? IF YOU PUT YOURSELF IN MORRISON'S POSITION, WHICH IS VERY DIFFICULT TO DO HERE, MORRISON HAS ABSOLUTELY NO CLARITY AT ALL BETWEEN WHO'S THE POLICE, WHO'S THE CHURCH. WHAT ROLE DOES THE CHURCH PLAY HERE.

HE KNOWS THE PERSON HE'S NOW CHOSEN TO BE HIS RELIGIOUS ADVISOR IS A POLICEMAN. THERE'S NO DOUBT IN HIS MIND RELATIVE TO THAT, IS THERE?

I DON'T KNOW. I DON'T KNOW. I DON'T KNOW WHAT DOUBTS THERE ARE. HE CERTAINLY IS AWARE THAT HE'S A POLICEMAN BUT HE'S ALSO AWARE THAT HE'S A PASTOR. I DON'T THINK YOU CAN JUST SAY THAT HE IS A POLICEMAN AT THIS MOMENT AND HE'S A PASTOR AT THAT MOMENT. THAT'S PART OF THE PROBLEM WITH THIS CASE. THE LINE IS NOT CLEAR. I'LL RESERVE THE REST OF MY TIME FOR REBUTTAL. THANK YOU, YOUR HONOR.

MAY IT PLEASE THE COURT I'M CURTIS FRENCH REPRESENTING THE STATE OF FLORIDA IN THIS CASE. I THINK FIRST OF ALL, WE NEED TO LOOK AT THE ULTIMATE QUESTION IN THIS CASE AND I WANT TO TALK ABOUT THE FACT, ALSO. BUT THE ULTIMATE QUESTION HERE IS GOING TO BE WHETHER OR NOT THE DEFENDANT'S CONFESSION WAS THE RESULT OF HIS WILL HAVE HAVING BEEN OVERBORN BY POLICE COERCION. AND OUR CONTENTION IS THAT IT WAS NOT. FIRST OF ALL, I WOULD LIKE TO POINT OUT THAT IF YOU LOOK AT MORRISON'S OWN TESTIMONY IN THIS CASE, HE HIMSELF INSISTED HIS WILL WAS NOT OVERBORN BECAUSE FIRST OF ALL, HE TESTIFIED THAT HE KNEW THAT HE DID NOT HAVE TO GIVE A STATEMENT. AND IN FACT HE INSISTED HE HAD NOT GIVEN A STATEMENT. NOW, THE STATE IS CERTAINLY DOES NOT HERE CONTEND THAT WHEN HE INSISTED HE HAD NOT GIVEN A STATEMENT THAT THAT'S TRUE. AT THE SAME TIME, THE STATE WOULD SUGGEST MORRISON OUGHT NOT TO BE ALLOWED TO TESTIFY AT THE TRIAL THAT HE GAVE NO STATEMENT WHATEVER, AND THEN CONTEND ON APPEAL THAT WELL, HE GAVE A STATEMENT BUT HIS WILL WAS OVERBORN. AS FAR AS HOW THIS CAME UP, THE STATE TO BE CLEAR AT THE MOTION TO SUPPRESS HEARING, HE TESTIFIED AND SAID I DIDN'T CONFESS.

HE TESTIFIED HE HAD NOT CONFESSED. HE DID NOT MAKE THIS STATEMENT, THIS HANDWRITTEN STATEMENT, O OR ANY ORAL STATEMENTS, ADMITTING HE'D GONE IN THERE OR -- AND STRUGGLED WITH THE VICTIM DURING THE COURSE OF WHICH THE VICTIM SUPPOSEDLY STABBED HIMSELF. WHICH WAS THE ORAL AND WRITTEN STATEMENT THAT WERE PRESENTED IN EVIDENCE. AS FAR AS HOW THIS CAME UP, I DON'T KNOW THAT IT MATTER IF RICHARDSON BROUGHT UP THE SUBJECT INITIALLY OR NOT. HE WAS NOT SENT TO THE SCENE TO DO ANYTHING EXCEPT -- OR SENT TO WHERE MORRISON WAS TO DO ANYTHING EXCEPT PICK HIM UP AND BRING HIM TO THE STATION. HE WAS NOT AN INVESTIGATOR IN THIS CASE. HE WAS NOT PART OF THE INVESTIGATIVE TEAM. HIS MISSION WAS JUST TO RETURN HIM BACK, RETURN HIM TO THE STATION.

HAD HE BEEN TO THE SCENE?

I THINK THAT MAY BE CORRECT.

BUT WHERE WAS HE WHEN HE GOT THE DIRECTION TO GO PICK UP MORRISON?

I BELIEVE MR. KAUFMAN SAID HE WAS AT THE SCENE. I HAVE NO REEZ RON TO DISPUTE THAT. I DON'T ACTUALLY RECALL WHERE HE WAS AT THE TIME. BUT IN FACT RICHARDSON DID NOT INTERROGATE HIM OR TALK TO HIM ABOUT THIS CASE ALTHOUGH HE INITIALLY STATED THAT HE THOUGHT HE HAD BROUGHT UP THE SUBJECT OF RELIGION FIRST. JUST A MOMENT OR TWO LATER HE SAID WELL, HE WASN'T REALLY SURE IF HE DID BUT IF HE HAD HE ONLY DID SO AFTER THE DEFENDANT TOLD HIM THAT HE HAD A PROBLEM WITH DRUGS AND ALCOHOL AND NEEDED TO GET HIS LIFE STRAIGHT. RICHARDSON TESTIFIED THAT HE NEVER -- THEY TALKED ABOUT RELIGION BUT HE NEVER TOLD MORRISON THAT HE SHOULD CONFESS TO THE POLICE.

AND MORRISON NEVER SAID ANYTHING TO THE CONTRARY OF THAT?

MORRISON NEVER SAID ANYTHING TO THE CONTRARY. AS A MATTER OF FACT IT'S UNDISPUTED IF YOU LOOK THE DEFENDANTS BRIEF ON PAGE 60 SAYS RICHARDSON DID NOT TELL MORRISON SAID HE WOULD NOT GO TO HELL IF HE DID NOT CONFESS. HE ALSO DID NOT PROMISE MORRISON ETERNAL PARADISE FOR CONFESSING. RICHARDSON STATED IT WAS NOT PART OF HIS RELIGIOUS BELIEFS THAT TOO GET RIGHT WITH GOD YOU HAVE TO CONFESS TO THE POLICE. IN HIS VIEW YOU CONFESS TO GOD AND THAT WAS A PRIVATE MATTER.

WHAT WAS IT THOUGH THAT HAPPENED? I GUESS WHAT I'M CONCERNED ABOUT IS HOW SOMEONE DOES GO FOR AN HOUR AND A HALF BEING A SPIRITUAL ADVISOR AND WHAT IS SAID BETWEEN THE TWO THE SUBJECT OF A PRIVILEGE, THE CLERGY PRIVILEGE. AND THEN DO YOU AGREE THAT IMMEDIATELY THEREAFTER THAT HE'S THEN WITH SHORT, ENCOURAGING THE DEFENDANT TO CONFESS? IS THAT THE CORRECT TERMS OF THE TIME LINE OF WHAT HAD HAPPENED WITH THE --

NO, I DON'T AGREE WITH THAT. AGAIN IF YOU LOOK AT THAT TIME DEFENDANT'S BRIEF AT PAGE 68. HE QUOTES RICHARDSON'S TESTIMONY. HE SAID AFTER THEY HAD HE HAD TALKED WITH MORRISON IN PRIVATE AND THEY CAME BACK OUT AND WERE TALKING TO SHORT. SAID MR. MORRISON BEGAN TO TELL SHORT ABOUT THE THINGS OF THE INCIDENT BUT IT WAS DIFFERENT FROM WHAT HE TOLD ME. HE WENT THROUGH DIFFERENT STORIES OF WHAT HAPPENED. HE WOULD LOOK TO ME AND CHANGE IT AGAIN. HE'D LOOK AT ME AND CHANGE IT AGAIN BUT I WAS CAREFUL, THIS IS RICHARDSON SPEAKING, I WAS CAREFUL NOT TO SAY ANYTHING. I DIDN'T MAKE ANY HAND GESTURES. AND FINALLY HE GAVE THE SAME INFORMATION HE HAD RELATED TO ME TO DETECTIVE SHORT.

BUT THERE WASN'T ANY STATEMENT THAT --

THE LAST SENTENCE IS, I TOLD HIM IF YOU WANT TO -- IF YOU WANT TO, YOU NEED TO RELATE THIS INFORMATION TO DETECTIVE SHORT.

LET ME COME BACK TO MORRISON'S TESTIMONY. STATING THIS ROUGHLY, IT APPEARS THAT THERE'S A CLAIM HERE THAT A POLICE OFFICER WHO ALSO WAS A MINISTER IMPROPERLY INFLUENCED THE DEFENDANT TO TESTIFY -- I MEAN, TO CONFESS. AND THAT THEREFORE, THAT WAS IMPROPER COERCION OR INFLUENCE THROUGH THIS SPIRITUAL SCENARIO HERE, THAT HE DID CONFESS.

THERE'S ALSO CONTENTION THAT WAS PART OF A POLICE STRATEGY WHICH WE DENY.

I'M TRYING TO RESTATE THAT REALLY FOR THE PURPOSE OF ASKING YOU. MORRISON NOW TESTIFIES. NOW, WAS HE ASKED ABOUT THAT? THAT IS, IS IT YOUR CLAIM THAT RICHARDSON INFLUENCED YOU TO CONFESS? AND THEREFORE YOU CONFESSED?

NO, HE SAID HE DID NOT CONFESS.

IN OTHER WORDS, DID HE TESTIFY, THE ONLY REASON I GAVE ANY STATEMENTS TO THE POLICE IS BECAUSE RICHARDSON, WHOM I WAS CONSULTING AS A MINISTER, TOLD ME I HAD TO GET RIGHT WITH GOD OR WHATEVER? IN OTHER WORDS, DID HE BACK UP HIS OWN CLAIM IN HIS TESTIMONY?

HE DID NOT SAY THAT HE MADE THIS STATEMENT ONLY BECAUSE HE WAS PERSUADED TO DO SO BY OFFICER RICHARDSON.

DID HE COME CLOSE TO THAT? IN OTHER WORDS, DID HE MAKE ANY ANY -- DID HE GIVE ANY TESTIMONY?

HE DID SAY IN HIS TESTIMONY THAT HE DIDN'T ASK TO TALK TO OFFICER RICHARDSON. THAT SHORT JUST BROUGHT HIM IN THERE AND TOLD HIM TO TALK TO HIM. THAT WAS HIS TESTIMONY. BUT HE DID NOT SAY THAT RICHARDSON PERSUADED HIM TO CONFESS. HIS INSISTENCE WAS HE DID NOT CONFESS.

DID HE SUGGEST IN HIS TESTIMONY THAT RICHARDSON PERSUADED HIM TO TALK TO THE OFFICERS? NOT USE THE WORD CONFESS BECAUSE IT APPEARS HE REALLY DID NOT CONFESS. HE THOUGHT HE WAS GIVING AN EXPLANATION THAT THIS WHATEVER HAPPENED HAPPENED AS A STRUGGLE OR SOMETHING.

HE DID NOT ACTUALLY CONFESS TO HAVING STABBED THE VICTIM. HIS TESTIMONY WAS HE WENT IN THERE AND GOT IN A SCUFFLE.

GOING BACK TO JUSTICE ANSTEAD'S QUESTION, IS THERE SOMEPLACE IN THE TESTIMONY HE SAID I JUST TALKED TO THEM OR GAVE THEM WHATEVER I SAID WAS ONLY BECAUSE OF RICHARDSON?

HE DENIED HAVING SAID TO THE OFFICERS WHAT THE OFFICERS CLAIMED HE SAID. OKAY? HE DENIED HAVING MADE THIS WRITTEN STATEMENT RELATING ABOUT THE SCUFFLE AND THE ACCIDENTAL STABBING. HE DENIED HAVING MADE AN ORAL STATEMENT TO PRETTY MUCH THE SAME EFFECT.

DOES THAT MEAN YOU'RE SAYING THEN THERE WAS NO TESTIMONY? WHATEVER HAPPENED TO RICHARDSON? BECAUSE I UNDERSTAND WHAT YOU'RE SAYING IS HE DENIED THAT STATEMENT BUT IS THERE ANY PLACE IN THERE, ANY EVIDENCE, WHERE HE TESTIFIES WITH REGARD TO, I ONLY TALKED TO THEM OR ANYTHING ALONG THOSE LINES? BECAUSE WE'RE GOING TO HAVE TO LOOK AND SEE WHAT'S THERE AND YOU CAN HELP US.

WAS THERE ANYTHING IN MORRISON'S TESTIMONY THAT SOMEHOW OR OTHER RICHARDSON WAS OVERLY PERSUASIVE TO HIM? I DON'T RECALL IT.

WOULDN'T YOU CLAIM THAT WOULD BE SIGNIFICANT? THAT IS, THAT IF THERE --

IF THERE WAS SURE.

IF THE PERSON WHO IS CLAIMING THAT HE WAS INFLUENCED TO GIVE A STATEMENT BY THE IMPROPER ACTIONS BY A -- OF A PARTICULAR POLICE OFFICER, THEN ORDINARILY AND MAYBE I'M WRONG, BUT WOULDN'T YOU EXPECT HIM TO GIVE TESTIMONY, THEN, TO SUPPORT THAT BY SAYING, WELL, I HAD ALL THESE MEETINGS --

HIS PRIMARY CLAIM AT TRIAL --

BUT YOU'RE SAYING HE NEVER DID THAT. IN OTHER WORDS, HE --

HE DENIED HAVING MADE THE STATEMENTS. HIS PRIMARY CLAIM AT TRIAL WAS HE INVOKED HIS

RIGHT TO COUNSEL AND HIS RIGHT TO SILENCE AND THOSE INVOCATIONS WERE NOT HONORED.

NOT THAT HE HAD BEEN IMPROPERLY INFLUENCED BY RICHARDSON.

THE ATTORNEY HIMSELF, THE ATTORNEY PRESENTED -- OBVIOUSLY RELIGION WAS SOME ISSUE IN SOME WAY BUT THE PRIMARY CONTENTION WAS THAT HE INVOKED HIS RIGHT TO COUNSEL AND HIS RIGHT OF SILENCE. THAT WAS THE EFFECT OF THE DEFENDANT'S TESTIMONY.

AT THE MOTION TO SUPPRESS.

AT THE MOTION TO SUPPRESS, CORRECT. AND I WOULD ALSO SAY BESIDES THAT, BESIDES HIS OWN TESTIMONY BEING INCONSISTENT WITH THE CLAIM HE'S MAKE NOW, THERE'S ALSO THE FACT HE IN FACT DID NOT CONFESS. IF HIS WILL WAS OVERBORN, I DON'T UNDERSTAND HOW HE CAN ARGUE HIS WILL WAS OVERBORN WHEN IN FACT IT WAS NOT A FULL CONFESSION. IT WAS AN INCRIMINATING STATEMENT BUT NOT A FULL CONFESSION. THERE'S NO EVIDENCE -- WELL, THE EVIDENCE PRESENTED BY THE STATE IS FIRST OF ALL THAT SHORT DID NOT KNOW THAT RICHARDSON WAS AN ORDAINED MINISTER. RICHARDSON MAY HAVE NOT EVERYBODY KNEW IT AND MAYBE SOME OTHER PATROLMEN KNEW IT BUT SHORT AND ALSO DETECTIVE DAVIS DID NOT KNOW THAT. IN ADDITION, I WANT TO ADD TO SOMETHING I SAID EARLIER BESIDES THE FACT HE DIDN'T ULTIMATELY CONFESS THERE'S ALSO THE FACT WHAT SHOWS THAT THE DEFENDANT KNEW THAT HE DIDN'T HAVE TO TALK TO POLICE IS THAT BEFORE HE EVER TALKED TO RICHARDSON, DAVIS AND SHORT WERE BOTH INTERROGATING HIM. DAVIS ACTED IN A MANNER THAT MORRISON THOUGHT WAS RUDE. TOLD HIM HE DIDN'T WANT TO TALK TO HIM AND DAVIS DID LEAVE AND DID NOT PARTICIPATE FURTHER IN THE INTERROGATION.

WAS THERE EVER A POINT WHERE RICHARDSON DISCLOSED WHAT MORRISON TOLD HIM IN THIS CONVERSATION, THAT THE TRIAL COURT LATER --

HE DID NOT PURSUE TO DETECTIVE SHORT OR DAVIS. THE FIRST TIME HE DID SO WAS WHEN HE WAS SUBPOENAED BY DEFENSE COUNSEL AND ASKED QUESTIONS ABOUT THAT.

DID HE TESTIFY THERE THAT MORRISON HAD GIVE AN INCUHPATORY STATEMENT TO HIM DURING THAT CONVERSATION.

I HAVE NOT READ THAT DEPOSITION. WHAT I'VE READ IS HIS TESTIMONY AT THE SUPPRESSION HEARING TO THAT EFFECT THAT BASICALLY HE WAS ASKED QUESTIONS ABOUT THAT DURING THE DEPOSITION. HE DID TESTIFY AT THE HEARING ON THE MOTION TO SUPPRESS THAT WHAT MORRISON TOLD HIM WAS ESSENTIALLY WHAT MORRISON ULTIMATELY TOLD DETECTIVE SHORT. AS FAR AS THE PRIVILEGE, THE STATE NEVER REALLY INSISTED ON PRESENTING THAT. I WOULD NOTE THAT DURING THIS CONVERSATION, THAT RICHARDSON HAD TOLD THE DEFENDANT THAT THEIR CONVERSATION WOULD BE BETWEEN THE TWO OF THEM AND HE WOULDN'T DISCLOSE THE CONTENTS OF THAT CONVERSATION OR ANYBODY ELSE. THAT WOULD PROBABLY BE ANOTHER REASON NOT TO RELY ON THAT STATEMENT.

WOULD YOU AGREE THAT THE STATE, IF A STATE AS A REGULAR COURSE HAD A POLICE OFFICER ON HIRE THAT WAS A A ALSO A MINISTER, AND USED POLICE OFFICER IN THE CAPACITY OF A MINISTER TO OBTAIN CONFESSIONS, IS THAT OKAY AS FAR AS THE REST -- OH.

THAT WOULD BE A DIFFERENT CASE. THAT DID NOT HAPPEN IN THIS CASE.

SO IF THAT SITUATION, IF THAT WAS THIS CASE, YOU WOULD AGREE THERE MIGHT BE SOMETHING INAPPROPRIATE.

I THINK HE WOULD HAVE A STRONGER ARGUMENT, SURE. AGAIN, OUR POSITION IS WHAT THE EVIDENCE SHOWS IS THAT RICHARDSON DID NOT GET INVOLVED IN THIS CASE IN ORDER TO

EXTRACT A CONFESSION OUT OF THE DEFENDANT OR TO, YOU KNOW, TO BRING UP THE SUBJECT OF RELIGION SO AS TO MAKE HIM MORE MALLEABLE. AFTER HE WAS BROUGHT BACK TO THE STATION AND THERE WAS A REFERENCE TO THE POLICE USING RELIGION FOR HOURS BUT THE FACT IS THAT THE INTERROGATION LASTED PROBABLY AN HOUR AND A HALF. THERE WAS NO MENTION OF RELIGION WHATSOEVER. THE FIRST MENTION OF RELIGION IN THE INTERROGATION BETWEEN DETECTIVE SHORT AND MORRISON WAS BROUGHT UP BY MORRISON HIMSELF. AND HE WANTED TO KNOW IF DETECTIVE SHORT WAS RELIGIOUS AND DETECTIVE SHORT SAID NOT PARTICULARLY BUT I BELIEVE IN GOD. THEN THEY TALKED ABOUT THAT A FEW MINUTES AND DETECTIVE SHORT OFFERED THEM THE OPPORTUNITY TO PRAY AND THEY WENT DOWN AND PRAYED. AFTER THAT, THE DEFENDANT STILL DIDN'T CONFESS AND DETECTIVE SHORT TESTIFIED HE BASICALLY THOUGHT IT WAS OVER. ALL HE DID WAS OFFER MORRISON THE OPPORTUNITY TO BRING SOMEBODY INTO THE JAIL. HE DIDN'T EXPECT HIM TO CALL A PREACHER. WHAT HE EXPECTED IS HE WOULD CALL A RELATIVE OR FAMILY MEMBER OR FRIEND OR SOMETHING LIKE THAT. THIS IS SOMETHING THEY DO I WOULD THINK WHEN YOU'VE BEEN INTERROGATING A DEFENDANT FOR A WHILE AND HE HASN'T CONFESSED YET. IS SOME TACTIC YOU TRY POSSIBLY I'M SURE DETECTIVE SHORT WAS HOPING AFTER HE TALKED TO HIS FRIEND OR FAMILY MEMBER OR SOMETHING HE MIGHT DECIDE TO GO AHEAD AND CONFESS. BUT HE TESTIFIED THAT HE DIDN'T EXPECT HIM TO ASK FOR RICHARDSON. IN FACT WHAT HE ASKED FOR WAS THE LAWYER -- I MEAN THE PREACHER POLICEMAN AND SHORT DIDN'T REALIZE WHO HE WAS TALKING TO AT THE TIME AND TOOK HIM SEVERAL MINUTES TO FIGURE THAT OUT AND THEY BROUGHT RICHARDSON DOWN THERE JUST TO TALK TO HIM. AGAIN, I AGREE THAT THIS IS AN UNUSUAL SORT OF CASE IN THAT THERE DOESN'T SEEM TO BE ANY FLORIDA CASES DEALING WITH THIS DIRECT ISSUE. CLOSEST KIND OF CASES ARE APPARENTLY THOSE INVOLVING CHRISTIAN BURIAL SPEECHES WHICH WE DON'T HAVE HERE. WHAT THIS COURT HAS SAID IS THAT AND THIS IS IN JOHNSTON V STATE WHICH I CITE IN MY BRIEF, EXCEPT IN THOSE NARROW AREAS ESTABLISHED IN LAW POLICE ARE NOT FORBIDDEN TO APPEAL TO THE CONSCIOUSNESS OF INDIVIDUALS. LOOKING AT CASES FROM OTHER YOURS DICK SHUNS INCLUDING THE STATE CASES CITED BY THE DEFENDANT AND ALSO THE FEDERAL CASE I'VE CITED IT APPEARS TO BE THE CASE THAT APPEALS TO RELIGIOUS SYMPATHIES ARE NOT PER SE IMPROPER. IN FACT IF YOU LOOK AT SOME OF THOSE CASES IT SEEMS TO ME THAT THE POLICE IN SOME OF THOSE CASES WENT FURTHER THAN THEY DID HERE IN ATTEMPTING TO APPEAL TO THEIR SYMPATHIES. FOR EXAMPLE, IN WELLS V BUTLER, WELL ANYWAY, IN SOME OF THOSE CASES, THE -- APOLOGIZE. CAN'T SEEM TO FIND IT RIGHT NOW. AT ANY RATE I THINK THOSE CASES SUPPORT OUR POSITION THERE WAS NO IMPROPER COERCION IN THIS CASE. I HAVE A FEW MINUTES LEFT. I'D LIKE TO TALK IF I MAY ABOUT THE NELSON ISSUE.

BEFORE YOU ADDRESS THAT, WAS THERE ANY EVIDENCE PRESENTED THAT AT THE TIME OF THE MURDER, THIS DEFENDANT WAS UNDER THE INFLUENCE OF DRUGS OR ALCOHOL?

THE ONLY EVIDENCE WAS THE STIPULATION THAT WAS ENTERED CONCERNING THE TESTIMONY OF A RELATIVE OR A FRIEND OF THE DEFENDANT THAT DIDN'T SHOW UP, I CAN'T RECALL HIS NAME OFF THE TOP OF MY HEAD. HE WAS AFRAID TO COME TO COURT BECAUSE HE WAS AFRAID HE'D BE ARRESTED. HE HAD SEEN HIM ON OR ABOUT THE TIME OF THAT AND HE WAS SUPPOSEDLY HIGH AT THAT TIME. BUT THE POLICE OFFICERS TESTIFIED THAT IN THEIR ON SER VAGUE HE SEEMED TO BE SOBER AND COHERENT AND WAS NOT UNDER THE INFLUENCE OF ANYTHING.

HOW MANY HOURS ELAPSED BETWEEN THE MURDER AND WHEN THE POLICE -- OH.

A COUPLE OF DAYS LATER. THE MURDER OCCURRED ON THE EVENING OF THE 8TH. IT WAS ARRESTED ON THE 10TH.

WAS THERE ANY CONTENTION MADE BY THE DEFENDANT AT TRIAL THAT AT THE TIME OF THIS MURDER THAT THE DEFENDANT WAS UNDER THE INFLUENCE OF --

I DON'T THINK SO. I THINK THE CONTENTION WAS OR AT LEAST THE PENALTY PHASE OF THE MOTIVE OF THE MURDER WAS TO GET MONEY TO BUY DRUGS.

DID THE KNIFE COME FROM --

THE KNIFE BELONGED TO THE VICTIM PROBABLY. I THINK THERE WAS TESTIMONY IDENTIFYING IT AS SUCH. HE HAD A COLLECTION OF KNIVES, THE VICTIM DID.

THE WOMAN THAT HE WAS WITH IN HER APARTMENT BEFORE THE MURDER TOOK PLACE TESTIFIED?

SHE TESTIFIED YES.

DID SHE TESTIFY HE WAS INTOXICATED?

I THINK HER TESTIMONY WAS THEY HAD CONSUMED A FEW BEERS DURING THE COURSE OF THE AFTERNOON AND THEY WERE FIXING TO GRILL SOME STEAKS OR CHICKEN OR SOMETHING.

BUZZ SHE ASKING MORE PRECISELY ABOUT HIS --

I DON'T RECALL THAT, NO. WAS THERE A TYING IN OF THE TIME HE LEFT HER APARTMENT.

THE EVENING OF THE 8TH SOMETHING LIKE 8:00 OR 9:00 P.M. AS I RECALL EXACTLY. WHATEVER WAS ON THE GRILL WAS ON THE GRILL AND HE LEFT AND DIDN'T COME BACK. AND SHE SAW HIM A COUPLE DAYS LATER.

WAS THE TIME OF DEATH ESTABLISHED TO BE WITHIN A FEW HOURS OF THAT?

I DON'T RECALL THAT A TIME WAS DEATH WAS ESTABLISHED. I DON'T BELIEVE THE BODY WAS DISCOVERED UNTIL THE NEXT DAY. AND I DON'T THINK YOU CAN GIVE AN EXACT TIME OF DEATH.

AND WAS THE VICTIM'S APARTMENT LOCATED IN THE SAME APARTMENT BUILDING?

THE VICTIM LIVED ACROSS THE HALL FROM THE DEFENDANT'S GIRLFRIEND. AND HE STAYED THERE AT LEAST PART OF THE TIME. MATTER OF FACT, MY UNDERSTANDING WAS HE WASN'T SUPPOSED TO BE LIVING THERE.

THE DEFENDANT PORTRAYS THIS UNDER PROPORTION ATLANTA ANALYSIS AS REALLY A ROBBERY GONE AWRY KIND OF THING AND SEEMS TO BE ADDRESSING SOME OF THE AGGRAVATING FACTORS. WHAT KIND OF SCENARIO DID WE HAVE WITH REGARD TO WHAT WAS HAPPENING WITHIN THIS APARTMENT ITSELF? WHAT KIND OF EVIDENCE WAS PRESENTED GOING TO WHAT IT LOOKED LIKE, A STRUGGLE, DISSHELVED? WHAT DO WE HAVE.

THERE WAS VERY LITTLE EVIDENCE O OF A STRUGGLE. WHAT THE EVIDENCE DID SEEM MOST CONSISTENT WITH WAS THE DEFENDANT HAVING THE VICTIM IN A HEADLOCK AND REACHING AROUND AND STABBING HIM IN THE NECK. THE VICTIM HAD ONE FAIRLY SHALLOW WOUND THAT WENT ENTIRELY ACROSS HIS NECK. HE HAD ANOTHER WOUND THAT WAS ALMOST FIVE INCHES DEEP THAT SEVERED THE ESOPHAGUS AND ALSO THE HYOID BONE AND SOME VARIOUS SMALLER BLOOD VESSELS AND NICKED HIS SPINE. AND HE WAS LEFT ON THE FLOOR AND THERE WAS A FAIR AMOUNT OF BLOOD AROUND THAT. BUT NO PARTICULAR EVIDENCE OF A STRUGGLE.

WASN'T THERE SOME EVIDENCE OF OTHER INJURIES TO THE VICTIM, I MEAN BRUISES?

LEHAD A COUPLE OF BRUISE WHICH WERE CONSISTENT WITH HIM HAVING BEEN DROPPED TO THE FLOOR. ALSO SOME MARKS ON THE FOREHEAD CONSISTENT WITH HIM HAVING BEEN HELD AROUND THE HEAD. THE VICTIM OF COURSE WAS NUMBER ONE 81 YEARS OLD. AND NUMBER 2, HE

HAD BEEN DISABLED SINCE HE WAS A CHILD. HE APPARENTLY HAD TYPHOID FEVER AND SUFFERED A STROKE AS A RESULT OF THAT AND HIS LEFT ARM WAS ALMOST USELESS. BASICALLY IT HUNG BY HIS SIDE MORE OR LESS LIKE THIS. HE COULDN'T DRIVE. I DON'T THINK HE COULD EVER DRIVE. HE COULDN'T DRESS HIMSELF. HE NEEDED ASSISTANCE DRESSING HIMSELF. HE HAD MEALS ON WHEEL TO BRING FOOD TO HIM BECAUSE HE HAD DIFFICULTY COOKING.

WAS THERE SOME EVIDENCE THAT THE DEFENDANT ACTUALLY KNEW THE VICTIM TOO BEFORE THIS?

YES.

COMING BACK TO THIS CLOSE PROXIMITY?

IF NOTHING ELSE BECAUSE HE LIVED ACROSS THE HALL. AND I BELIEVE ALSO THE DEFENDANT'S SON WOULD COME OVER TO THE VICTIM WHEN MEALS ON WHEELS WOULD ARRIVE AND THE VICTIM WOULD GIVE HIM FOOD. THAT WAS SORT OF A ROUTINE.

DID THE DEFENDANT TESTIFY AT THE TRIAL AT EITHER THE GUILT OR PENALTY PHASE AND GIVE THIS STATEMENT AGAIN ABOUT IT BEING AN ACCIDENT OR SELF-INFLICTED OR WHATEVER?

NO, HE DID NOT. I MUST SAY ABOUT THAT STATEMENT, HIS OWN EXPERT WITNESS THAT HE PRESENTED AT THE PENALTY PHASE WAS ASKED IF THE VICTIM COULD HAVE INFLICTED THOSE WOUNDS HIMSELF. AND HE SAID NO WAY. WELL ACTUALLY WHAT HAPPENED WAS THE PROSECUTOR SAID, DO YOU AGREE THERE'S NO WAY THE VICTIM COULD HAVE INFLICTED THE WOUNDS HIMSELF? AND THE WITNESS SAID, THAT'S CORRECT.

AND THE MURDER WEAPON WAS LATER RETRIEVED FROM A HIDING PLACE?

THE MURDER WEAPON WAS RETRIEVED, THE BLOOD ON IT WAS IDENTIFIED THROUGH DNA ANALYSIS AS THE VICTIM'S. THE DEFENDANT WAS THE PARTY WHO LED THE POLICE TO KNIFE AND SHOWED THEM WHERE IT WAS. THERE WERE FOUR STATUTORY AGGRAVATING CIRCUMSTANCES IN THIS CASE. THERE WERE NO STATUTORY MITIGATEORS. THERE WERE A NUMBER OF NONSTATUTORY MITIGATING CIRCUMSTANCES WHICH THE COURT GAVE SOME WEIGHT, INCLUDING THE FACT THAT HE WAS OF HIGH BORDERLINE INTELLIGENCE. BUT IF YOU LOOK AT THE CASE'S EYESIGHT, IN SIMILAR CIRCUMSTANCES IN TERMS OF AGGRAVATION, THE SIMILAR KIND OFING A VA ORS THAT ARE PRESENT HERE, THIS COURT HAS FOUND THAT THE DEATH PENALTY NOTED SOME MENTAL HEALTH MITIGATION WAS PRESENT.

DO YOU WANT TO ADDRESS THE NELSON ISSUE?

YES, SIR. THE DEFENDANT FILED A NUMBER O OF PLEADINGS ON HIS OWN, PRO SE PLEADINGS, DURING THE COURSE OF THE PRETRIAL PROCEEDINGS UP TO JUNE 25TH, 1998. MOST OF THESE WERE IN THE FORM OF A MOTION TO SUPPRESS. THEY HAD VARIOUS SORTS OF NAMES INCLUDING MOTION TO SUPPRESS, REHEARING ON MOTION TO SUPPRESS, APPEAL TO MOTION TO SUPPRESS. SOME WERE CIVIL RIGHTS ACTIONS AND SO FORTH. IN A COUPLE OF THOSE MOTIONS TO SUPPRESS WAS A PARAGRAPH NEAR THE END I THINK ON MAY 13 HE FILED TWO MOTIONS TO SUPPRESS. ONE WAS SEVEN PAGES LONG, ONE WAS EIGHT PAGES LONG. AND COMPLAINED ABOUT HIS ATTORNEY AND ASKED FOR ANOTHER ATTORNEY TO BE APPOINTED. ON THE FINAL PAGES OF BOTH THOSE MOTIONS. HE HAD PREVIOUSLY SOUGHT TO DISMISS HIS APPOINTED ATTORNEY PROBABLY IN APRIL. I THINK APRIL THE 2ND OR SOMETHING LIKE THAT. BUT HE HAD WITHDRAWN THAT.

HOW DID HE DO THAT? DID HE DO THAT ORALLY OR IN A WRITTEN --

HE FILED ANOTHER WRITTEN PLEADING EXPLICITLY WITHDRAWING HIS REQUEST FOR ANOTHER ATTORNEY AND STATING HE WAS NOW SATISFIED WITH HIS ATTORNEY. THEN A FEW WEEKS

AFTER THAT HE FILED THESE OTHER MOTIONS WHICH CONTAINED SOME CRITICISM OF HIS COUNSEL AND REQUEST FOR ANOTHER ATTORNEY. THERE WAS A HEARING DAY ON JUNE 26, 1998,. AT THAT HEARING THERE WERE A NUMBER OF MOTION THAT HAD BEEN FILED BY THE DEFENDANT'S ATTORNEY. THE JUDGE ADDRESSED THEM. AT THE CONCLUSION OF THAT HE TURNED TO THE DEFENDANT AND TOLD THE DEFENDANT THAT HAVING DISPOSED OF THESE MOTIONS HE WAS AWARE THAT THE DEFENDANT HAD FILED SEVERAL MOTIONS. AND HE EXPLAINED TO THE DEFENDANT THAT AFTER HAVING TALKED TO HIS ATTORNEY WHICH HE DID AT THIS SAME HEARING AND THE ATTORNEY STATED THAT HE HAD NOT ADOPTED ANY O OF THE DEFENSE MOTIONS TO SUPPRESS BECAUSE BASICALLY THEY WERE REDUNDANT TO THE ATTORNEY'S AND THE ISSUE HAD BEEN PRESERVED. THE COURT RULED AGAINST HIM BUT IT HAD BEEN PRESERVED FOR APPEAL. THE JUDGE EXPLAINED HE WAS NOT GOING TO RECONSIDER THAT MOTION. THAT HE HAD DECIDED IT. BUT IF THERE WAS ANYTHING ELSE THE DEFENDANT WANTED TO TAKE UP, THAT -- EXCUSE ME. HE WOULD DO SO. AND HE DID IT IN THIS MANNER. COURT SAYS, WE'VE HAD OUR REHEARING ON THAT MOTION. I'M NOT GOING TO CHANGE MY MIND ON THAT RULING. BUT IF THERE ARE ANY OTHER MATTER YOU FEEL YOU NEED TO ADDRESS CONCERNING YOUR CASE, I'LL CERTAINLY CONSIDER THAT. AND THE ONLY THING THAT THE DEFENDANT RAISED WHEN GIVEN THIS OPPORTUNITY TO VOICE ANY OBJECTIONS HE HAD TO HIS COUNSEL WAS TO ASK ABOUT THE WITNESS, FRED AUSTIN, WHO HAD NOT APPEARED TO TESTIFY IN PERSON BUT HAD TESTIFIED BY STIPULATION. THE COURT EXPLAINED THAT THE CIRCUMSTANCES OF THAT, MR. AUS STEN DID NOT WANT TO COME TO COURT. THAT HIS STIPULATION HAD BEEN PRESENTED ANYWAY. THEN THE COURT SAYS DO YOU HAVE ANY OTHER QUESTIONS ABOUT ANYTHING? THE DEFENDANT, "NO, SIR." NOW, I THINK PROBABLY UNKNOWN TO THE COURT BECAUSE HE DOESN'T REFERENCE THIS PLEADING AT PAGE 34 OF HIS SUPPLEMENTAL RECORD WHEN HE'S TALKING ABOUT THE THINGS HE HAS BEFORE HIM, THE DAY BEFORE THIS HEARING, THE DEFENDANT HAD FILED ANOTHER MOTION TO SUBSTITUTE COUNSEL, DISMISS COUNSEL AND APPOINT ANOTHER ATTORNEY TO REPRESENT HIM. HOWEVER, WHEN GIVEN THE OPPORTUNITY -- THE DEFENDANT WAS AWARE OF THIS MOTION HAVING WRITTEN IT THE DAY BEFORE HIMSELF, SAID NOTHING ABOUT IT. IN FACT, AFTER THIS HEARING AND THE TRIAL WAS SOME THREE MONTHS LATER, FROM THE DATE OF THIS HEARING UNTIL THE DATE OF THE TRIAL IN SEPTEMBER, THE DEFENDANT FILED NO MOTIONS WHATEVER. AFTER HAVING FILED NUMEROUS MOTIONS FOLLOWING THIS DATE HE FILED NONE. HOWEVER, AFTER THE JURY SELECTION BE BUT BEFORE THE TRIAL BEGAN THE TRIAL JUDGE HAD BEEN REVIEWING A NUMBER OF THINGS THAT HAD BEEN FILED AND ASKED DEFENSE COUNSEL ABOUT SOME ALIBI WITS THAT THE DEFENDANT HAD REFERENCED IN A LETTER HE'D WRITTEN TO THE COURT BACK IN 1997. THIS LETTER THAT WAS WRITTEN IN 1997 WAS NOT A COMPLAINT ABOUT HIS ATTORNEY. ALL IT WAS WAS PACECALLY A LETTER TO THE COURT OUTLINING HIS ALIBI AND HAVING A LIST OF ALIBI WITNESSES. SO THE COURT ASKED THE ATTORNEY ABOUT THESE WITNESSES AND WHETHER OR NOT HE TALKED TO THEM AND WHETHER OR NOT HE WAS GOING TO USE THEM. THERE'S A SEVERAL PAGE COLLOQUY ABOUT THAT. THE DEFENDANT AT NO TIME SAID ANYTHING AT THIS TIME. OUR POSITION IS THAT THE TRIAL JUDGE MADE A SUFFICIENT INQUIRY. THAT HE MADE AN INQUIRY ON JUNE 26 OF THE DEFENDANT PERSONALLY. HE ALSO MADE AN INQUIRY BEFORE TRIAL CONCERNING THE WITNESSES AND IN THE JUNE 25TH MOTION, THE ONLY SUBSTANTIVE ALLEGATION WE THINK THE DEFENDANT MADE WAS THAT THE ATTORNEY HAD NOT TALKED TO THE WITNESSES SO BEFORE TRIAL HE DID ASK ABOUT THAT. AND BECAUSE THE DEFENDANT VOICED NO DISSATISFACTION WITH HIS ATTORNEY AFTER JUNE 25, AND PROCEEDED TO TRIAL WITHOUT MAKING ADDITIONAL ATTEMPT TO DISMISS COUNSEL THAT THERE WAS NO ERROR AR AT LEAST NO HARMFUL ERROR. IF THERE ARE NO OTHER QUESTIONS, IF THERE IS ANYTHING I HAVEN'T ADDRESSED, I WOULD RELY ON MY BRIEF. THANK YOU.

WAS THERE ANY INDICATION THAT OFFICER RICHARDSON HAD BEEN USED IN THIS FASHION BEFORE? OR WAS THIS JUST AS FAR AS THIS RECORD IS CONCERNED, THIS WAS AN ISOLATED --

THIS SEEMS LIKE A TOTALLY ISOLATED ABERRATIONAL INCIDENT. THERE WAS NO INQUIRY MADE ABOUT WHETHER OR NOT IT OCCURRED BEFORE SO REALLY THE RECORD IS SILENT AS TO THAT.

COULD YOU EXPLAIN, AND I REALIZE EACH OF THESE CASES ARE UNIQUE. BUT ORDINARILY YOU WOULD THINK IF IT'S LIKE A TRAFFIC STOP OR WHATEVER AND A CONSENT SEARCH OR SOMETHING, THE DEFENDANT GETS ON THE STAND AND SAYS, "OH, NO, I DIDN'T GIVE MY CONSENT TO SEARCH SEARCH" OR WHATEVER. AND SO HERE WE'VE GOT THIS MOTION TO SUPPRESS O ON THE BASIS THAT IN ESSENCE, THE MINISTER WAS USED TO OVERCOME THE DEFENDANT'S WILL AS PART OF A SCHEME HERE TO GET A CONFESSION OUT OF HIM. AND SO THE DEFENDANT NOW TESTIFIES AT THIS HEARING. BUT IF I UNDERSTAND IT CORRECTLY HE NEVER MAKES ANY CLAIM DURING HIS TESTIMONY THAT THE POLICE OFFICER/MINISTER IMPROPERLY COERCED HIM INTO GIVING A STATEMENT TO THE OTHER POLICE OFFICER.

IT'S COMPLETELY CONSISTENT --

AM I CORRECT ABOUT THAT?

HE DOESN'T SAY HI WAS COERCED FROM A RELIGIOUS STANTD POINT. HE DOESN'T SAY HE WASN'T CO SERSED. WHAT HE SAID WAS I DIDN'T MAKE ANY STATEMENTS.

BUT THE MOTION, OBVIOUSLY THE FOCUS O OF THE MOTION AM I CORRECT IS THE FOCUS THAT YOU HAVE NOW. AND THAT IS THAT HIS WILL WAS OVERCOME AND IN ESSENCE THIS CONSTITUTED COERCION AND WAS AN INVOLUNTARY STATEMENT.

YOUR HONOR, THE -- OH.

SO WAS HE ASKED ABOUT ANY OF THAT?

THE WHOLE PROSECUTION WAS BASED ON EVERYTHING MORRISON SAID WAS A LIE.

ANSWER HIS QUESTION. ANSWER YES OR NO AND THEN EXPLAIN IT. WAS HE ASKED ABOUT THAT?

WAS HE ASKED WHETHER OR NOT HE HAD BEEN COERCED INTO MAKING A STATEMENT?

THE INFLUENCE OF THE POLICE OFFICER/MINISTER IN GIVING OF ANY STATEMENTS THAT HE MADE TO THE POLICE.

I DON'T BELIEVE HE WAS ASKED IF HE WAS COERCED TO MAKE A STATEMENT BECAUSE HE DENIED HAVING MADE A STATEMENT BUT I WOULD SUGGEST YOU LOOK AT THE RECORD PAGE VOLUME 8 RECORD 1399 TO 1403, THAT'S BASICALLY WHERE MORRISON TESTIFIED IN HIS OWN DEFENSE AT THE SUPPRESSION HEARING.

I'M ASKING YOU TO SORT OF, YOU'RE MORE FAMILIAR WITH THE RECORD THAN I AM AT THIS STAGE, TO HELP ME WITH THAT. I GUESS MAYBE I'M OVERSIMPLIFYING IT BUT IT'S SORT OF LIKE SAYING I'M FILING A MOTION SAYING THE POLICE DID THIS IMPROPER CONDUCT AND THIS PARTICULAR IMPROPER CONDUCT DOES INVOLVE PERSONAL CONTACT WITH THE DEFENDANT, SOMETHING HE WOULD BE KNOWLEDGEABLE ABOUT. NOW AFTER FILING THAT MOTION, AMONGST THE WITNESSES THAT I CALL, I CALL MYSELF. AND NOW I'M SORT OF ASKING, DID HE SUPPORT THOSE CLAIMS IN HIS TESTIMONY ABOUT THE INFLUENCE OF THE MINISTER/POLICE OFFICER ON WHAT HE DID?

TO SOME EXTENT, YES. TO SOME EXTENT BECAUSE HE WASN'T REALLY ASKED WHETHER HIS STATEMENTS WERE THE RESULT OF COERCION BECAUSE HE TOOK POSITION HE WASN'T MAKING STATEMENTS. THIS IS AN ALTERNATIVE -- THE MOTION IS ESSENTIALLY ARGUING THINGS IN THE ALTERNATIVE. HE DIDN'T ASK FOR A LAWYER BUT SAYS HE DID ASK FOR A LAWYER. HE DIDN'T MAKE A STATEMENT BUT IF HE DID IT COERCED. THE DEFENSE'S STRATEGY IS TO ARGUE THINGS AS ALTERNATIVE DEFENSE. AT ONE POINT MARRY SON SAYS ARE RICHARDSON SAID TO HIM

DURING THAT PERIOD OF TIME, THESE GUYS ARE FOR REAL, SERIOUS. YOU KILLED A WHITE MAN. YOU BETTER TELL THEM EVERYTHING THEY WANT TO HEAR. THAT TO MY RECOLLECTION IS THE EXTENT TO WHICH MORRISON SAID THAT RICHARDSON PRESSURED HIM TO TALK.

WHEN DID HE SAY THAT? DID HE SAY THAT HAPPENED IN THE POLICE STATION? ON THE WAY TO THE POLICE STATION?

YES.

AT THE VERY BEGINNING OF ALL OF THIS HE SAYS THAT WHAT RICHARDSON SAID TO HIM?

IT WAS DURING -- I BELIEVE HE SAID IT WAS DURING TRANSPORT. I'M NOT SURE IF IT WAS DURING THE TRANSPORT FROM THE POINT OF ARREST TO THE RAMONA APARTMENTS. FROM THE RAMONA APARTMENTS TO THE POLICE STATION.

BUT WASN'T THE REAL FOCUS OF MORRISON'S TESTIMONY, ALTHOUGH WE HAVE ARE ALTERNATIVE THEORIES OF WHY THE STATEMENT SHOULD BE SUPPRESSED, THE REAL FOCUS OF MORRISON'S TESTIMONY HOWEVER SEEMS TO BE THAT THEY REALLY VIOLATED MY MIRANDA RIGHTS. I ASKED FOR A LAWYER AND THEY WOULDN'T GIVE ME ONE. WELL, I ASKED FOR MY FATHER SO I COULD GET A LAWYER AND THEY WOULDN'T GIVE ME ONE. I TOLD THEM I DIDN'T WANT TO TALK TO THEM BUT THEY CONTINUED TO TALK TO ME. SO HIS TESTIMONY REALLY DOESN'T FOCUS IN ON THE COERCION ASPECT, BUT REALLY FOCUSES IN ON A VIOLATION OF VARIOUS PARTS OF MIRANDA.

I THINK THAT'S PROBABLY ACCURATE. FIRST, I'M NOT GOING TO VOUCH FOR THE FINE QUALITY OF THE LAWYERING IN THIS CASE. SO I'M NOT SURE THAT THE LAWYER DID APPROPRIATELY DRAW OUT THAT KIND OF EVIDENCE IF HE THOUGHT HE NEEDED TO. BUT LOOKING AT IT FROM ANOTHER ANGLE HE MAY HAVE THOUGHT I HAD NO NEED TO INQUIRE OF RICHARDSON ANYTHING ABOUT THE COERCION BECAUSE I GOT IT ALL OUT OF THE STATE'S OWN WITNESSES. THE STATE HAS PRESENTED THAT CASE FOR ME SO I NEEDN'T GO INTO THAT WITH MORRISON. IF YOU DON'T MIND YOUR HONOR I NEED TO SAY A COUPLE OF VERY SHORT THINGS TO MAKE CORRECTIONS. FIRST OF ALL THERE'S ABSOLUTELY NO EVIDENCE.

THEY'LL HAVE TO BE VERY BRIEF BECAUSE YOU'VE USED YOUR TIME.

THERE'S NO EVIDENCE THAT DEFENDANT NEW DWELL. THE DEFENDANT DID NOT LIVE IN THAT APARTMENT COMPLEX THAT HIS GIRLFRIEND DID. THERE WAS EVIDENCE OF A STRUGGLE. THAT'S IN THE RECORD. AND THERE WAS EVIDENCE HE HAD BEEN USING DRUGS. AND VARIOUS PLACES IN THE RECORD HE HAS SAID HE HAD BEEN SMOKING CRACK COCAINE AT 9:00 P.M. IMMEDIATELY BEFORE THE HOMICIDE. HIS MOTHER TESTIFIED THAT HE LOOKED INTOXICATED. THERE WERE SOME OTHER WITNESSES, SANDRA BROWN THE GIRLFRIEND SAID HE'S DRUNK TWO OR THREE TALL BEERS RIGHT BEFORE THE MURDER TOOK PLACE. SO THERE WAS EVIDENCE IN THE RECORD AND I'D PUT THAT IN MY BRIEF.

THANK YOU.

THANK YOU, YOUR HONORS.

THANK YOU, BOTH.

COURT IS IN RECESS.